

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NICOLE CRAINE,

Plaintiff,

- against -

BEYOND THE W, LLC

Defendant.

Docket No. 2:19-cv-2259

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Nicole Craine (“Craine” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Beyond The W, LLC (“Beyond” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of basketball player Maori Davenport, owned and registered by Craine, a New York based professional photographer. Accordingly, Craine seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Craine is a professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 120 Thames Street, Unit 304, Brooklyn, New York 11237.

6. Upon information and belief, Beyond is a domestic limited liability company organized and existing under the laws of the State of New York, with a place of business at 44 Clyde Avenue, Hempstead, New York 11550. Upon information and belief, Beyond is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Beyond has owned and operated a website at the URL: www.BeyondTheW.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Craine photographed basketball player Maori Davenport (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Craine is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-146-110.

B. Defendant’s Infringing Activities

10. Beyond ran an article on the Website entitled *Jan. 22 Hearing Date Set for Maori Davenport, AHSAA*. See: <http://beyondthew.com/jan-22-hearing-date-set-for-maori-davenport-ahsaa/>. The article featured the Photograph. A true and correct copy and a screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. Beyond did not license the Photograph from Plaintiff for its article, nor did Beyond have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Beyond infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Beyond is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Beyond have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Beyond be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
April 17, 2019

LIEBOWITZ LAW FIRM, PLLC
By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305

Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Nicole Craine

EXHIBIT A



EXHIBIT B

BEYOND THE W

JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT, AHSAA



The next stage of the ongoing saga involving Charles Henderson High School girls basketball's Maori Davenport will occur in a Troy courthouse on Tuesday, January 22. Pike County Circuit Judge Henry Sonny Reagan set a hearing for that day at 1:30 p.m. at Pike County Courthouse.

LATEST POSTS



BEYOND THE

(<http://beyondthew.com/>)

JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT, AHSAA



The next stage of the ongoing saga involving Charles Henderson High School girls basketball's Maori Davenport will occur in a Troy courthouse on Tuesday, January 22.

Pike County Circuit Judge Henry "Sonny" Reagan set a hearing for that day at 1:30 p.m. at Pike County Courthouse.

The announcement comes on the heels of a temporary order – also issued by Reagan – last week that allowed Davenport to play for the Trojans. In her return to the team, she scored 25 points and has encountered a massive amount of support from around the country as she continues her fight against the Alabama High School Athletic Association.



Alec Etheredge SCR
@AlecEtheredgeSC

Maori Davenport led Charles Henderson to a 72-17 win tonight and had 25 points in doing so. That's how you make a statement.

40 9:02 PM - Jan 11, 2019

[15 people are talking about this](#)



Zach Wilcox



@ZachWilcox4

Maori Davenport returns to the court with 25 points going into the 4th quarter!

45 8:48 PM - Jan 11, 2019

[See Zach Wilcox's other Tweets](#)

()



D'Arcy Maine

@darcymaine_espn

Maori Davenport is officially back, y'all!


221 7:54 PM - Jan 11, 2019

[63 people are talking about this](#)

()

Jon Solomon

@JonSolomonAspen

 Maori Davenport on her return and the support by the local community: "I will never allow myself to forget this day." If she wasn't already, Maori is going to be one seriously motivated young woman. [espn.com/espnw/sports/a...](https://www.espn.com/espnw/sports/a...)

11 9:43 AM - Jan 12, 2019

Maori Davenport scores 25 points hours aft...

Hours after a judge granted a motion allowing her to play for the first time since Nov. 29, Maori Davenport scored 25 points in Charles
[espn.com](https://www.espn.com)

[See Jon Solomon's other Tweets](#)

()

On Tuesday night, she tallied 13 points in another win for Charles Henderson.

The snafu stems from an \$850 stipend she received from USA Basketball after she led her U18 team to a gold medal in the FIBA Americas tournament in Mexico. The AHSAA prohibits stipends of more than \$250 and USA Basketball did not check with either the high school or the athletic association before sending the check.

The AHSAA is contending that when Davenport received the check in August, the money was not returned until November, but USA Basketball admitted its error and says the money was returned almost instantly.

SHARE ON

f FACEBOOK (HTTP://WWW.FACEBOOK.COM/SHARER.PHP?U=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/&T=JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT AHSAA)

t TWITTER (HTTPS://TWITTER.COM/INTENT/TWEET?ORIGINAL_REFERER=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/&TEXT=JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT AHSAA&PW=TWITTERBUTTON&URI=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/)

p PINTEREST (//PINTEREST.COM/PIN/CREATE/BUTTON/?URL=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/&MEDIA=HTTP://BEYONDTHEW.COM/WP-CONTENT/UPLOADS/2019/01/R487617_1295X859CC-1024X679.JPG&DESCRIPTION=JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT, AHSAA)

g+ GOOGLE + (HTTPS://PLUSONE.GOOGLE.COM/_/*1/CONFIRM?HL=EN-US&URL=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/)

in LINKEDIN (HTTP://WWW.LINKEDIN.COM/SHAREARTICLE?MINI=TRUE&URL=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/&TITLE=JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT, AHSAA&SOURCE=BEYOND THE W)

✉ EMAIL (MAILTO:?SUBJECT=JAN. 22 HEARING DATE SET FOR MAORI DAVENPORT, AHSAA&BODY=HTTP://BEYONDTHEW.COM/JAN-22-HEARING-DATE-SET-FOR-MAORI-DAVENPORT-AHSAA/)